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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/692,716	10/20/2000	Sandrine Decoster	05725.0785.00000	5608

22852 7590 07/16/2002

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EXAMINER

YU, GINA C

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 07/16/2002

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/692,716

Applicant(s)

DECOSTER ET AL.

Examiner

Gina C. Yu

Art Unit

1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-104 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-104 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Receipt is acknowledged of Response filed on May 7, 2002. Claims 1-104 are pending. Claim rejections under 35 U.S.C. § 103 are maintained for reasons of record as indicated in the previous office action dated February 11, 2002.

Terminal Disclaimer

The terminal disclaimer filed on May 7, 2002, disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of application no. 09/692, 360 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

(A) Claims 1-18, 21, and 101-104 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dalle taken with Zviak (The Science of Hair Care, p. 68-70).

The rejection is maintained for reasons of record as indicated in the previous Office action dated February 11, 2002.

(B) Claims 1-17, 19, 20, 22, 24, and 101-104 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Dalle in view of Quack.

The rejection is maintained for reasons of record as indicated in the previous Office action dated February 11, 2002.

(C) Claims 1-19, 22, 23, 25-36, and 101-104 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Dalle et al. in view of Mougin.

The rejection is maintained for reasons of record as indicated in the previous Office action dated February 11, 2002.

(D) Claims 37-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dalle and Mougin as applied to claims 1-19, 22, 23, 25-36, and 101-104 above, and further in view of Restle.

The rejection is maintained for reasons of record as indicated in the previous Office action dated February 11, 2002.

(E) Claims 64-100 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dalle and Mougin as applied to claims 1-19, 22, 23, 25-36, and 101-104 above, and further in view of Decoster et al. (U.S. Pat. No. 6,150,311) ("Decoster").

The rejection is maintained for reasons of record as indicated in the previous Office action dated February 11, 2002.

Response to Arguments

Applicant's arguments filed May 7, 2002 have been fully considered but they are not persuasive.

Applicants reiterate that there is no "clear and particular" reason to employ conventional cosmetic thickening agents to formulate a cosmetic composition which is known to contain thickeners. Examiner respectfully disagrees for the reasons of record. See office action dated February 11, 2002, Response to Arguments, page 5, lines 1-3.

While applicants assert that Dalle teaches away from employing cationic surfactants, examiner notes that the prior art in fact teaches to use quaternary ammonium cationic surfactants. See Dalle, page 4, lines 26 – 37.

Applicants argue that examiner's rejection lacks a reason to combine the references. It has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the cited references are analogous arts all directed to cosmetic compositions, and the combination of the references is proper.

Conclusion

No claims are allowed.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina C. Yu whose telephone number is 703-308-3951.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Minna Moezie can be reached on 703-308-4612. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 for regular communications and 703-308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1234.

Gina C. Yu
Patent Examiner
July 10, 2002

RUSSELL TRAVERS
PRIMARY EXAMINER
GROUP 1200